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Enzi emphasized that the MINER Act has been in place only 16 months, and some of its provisions have not yet become effective. He urged his colleagues to allow experts to investigate the Crandall Canyon tragedy thoroughly before considering new legislation.

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**Statement of Michael B. Enzi, Ranking Member**

**Senate Committee on Health, Education, Labor and Pensions**

**October 2, 2007**

**HELP COMMITTEE HEARING ON  
“RECENT MINE SAFETY DISASTERS: ISSUES AND CHALLENGES”**

I want to thank Chairman Kennedy for holding this hearing. Like all Americans, I am saddened that we are here again, discussing another tragic mining accident. In Crandall Canyon, Utah, 6 miners are presumed dead, and 3 rescue team professionals who risked their lives to save them are also lost. And in my home state of Wyoming just a few days ago, a 17-year veteran in the underground trona mines lost his life when the vehicle he was operating overturned. I'd like to express my condolences to his family and the mining community there in Green River.

Every mining accident has a profound impact on the loved ones of those whose lives have been lost. Our prayers and sympathies go out to all of them. Every mining accident of the magnitude of Crandall Canyon demands thorough investigation; and appropriate action against anyone found culpable. The investigation and law enforcement efforts, if any, must be carried out by those with the expertise and authority to do so. Every mining accident must be an occasion for us to learn, and to change if necessary. We honor those whose lives have been lost best when we act to ensure that the tragedy will not be repeated. Every mining accident should not, however, become an opportunity for political posturing. Likewise, while every mining accident should be a learning experience, not every mining accident will require legislative action.

In Wyoming, we are blessed with many natural resources and mining is a major source of employment. So it is very important to me that we do all we can here in the HELP Committee to keep mining as safe as it can be and to improve conditions wherever and whenever we can. In the case of Crandall Canyon, once all the facts are known and once the experts have fully analyzed the situation, we will then have an accurate picture of what may have gone wrong. This factual picture should be the guide for any future action.

There is an understandable, but not always productive, tendency among those involved in regulating the mining industry to prematurely react to the last accident with significant fatalities, rather than taking a wider view of best practices and learning from every accident, fatal or not. One of the goals of the MINER Act, the bipartisan legislation Senators Kennedy, Rockefeller, Byrd, Isakson, Murray and I drafted last year and which was enacted, was to break that cycle.

The MINER Act stands for individual mine-based accident prevention instead of a one size fits all approach. With that law, we required that every mine become as best prepared as possible for an accident. We raised the standards for rescue teams, breathable air, communications technology and seals, among other things, and sought to turn the power of American inventiveness toward creating improved mine communication and rescue technology.

The MINER Act is a law we can all be proud of. It has been in place a scant 16 months, and some of its provisions have not yet become effective. Yet some are proposing that Congress amend the mining laws again. This is something we should look at very closely. The legislative proposals some are trying to connect to the Crandall Canyon tragedy actually would have done nothing to prevent that accident, and relate not at all to high cover mining, retreat mining techniques, seismic activity or other issues raised by that tragedy.

I would also like to bring to the Committee's attention an article in the New York Times last week. They sent a reporter to Huntington, Utah to cover a meeting of the state Mine Safety Commission. The reporter wrote that every miner in attendance opposed new laws and believed current regulations were not inadequate. So that is the view of miners there in Utah, according to the New York Times. One of the reasons I am so proud of the MINER Act is that we wrote it in the way I believe all legislation should be drafted. We brought in all of the stakeholders – the union, the industry, the safety experts, MSHA – and we sat them all around the table and worked through the biggest safety concerns and the best way to approach them. MINER was the first major revision of the Mine Safety and Health Act in 28 years. I believe it is appropriate to wait at least 28 months before going into the statute again.

That is not to say that there will not be lessons from Crandall Canyon that may require changes. However, most changes in this highly technical area should be accomplished by the safety experts both inside and outside of government that deal with these complex

matters on a daily basis. We should listen to those experts to inform our decision about whether a change in the law is warranted. This is an area in which the experts should lead, and we should make sure the way is clear for them to do so.

In that regard I'd note that this Committee's current work on the MINER Act itself is still not done. This committee significantly enhanced the mission of the Office of Mine Safety and Health within NIOSH and I believe we are all very anxious to follow up on their research into wireless two-way communications and tracking devices that might actually work in most underground mines. They are also exploring breathable air apparatus that will last longer, be less cumbersome for miners, and be safer to operate. I am pleased to see Dr. Jeffery Kohler from NIOSH here today. I have invited the mining experts there at NIOSH to come and brief me on the state of the testing and research they are conducting. Just how far away are we from wireless two-way communications systems that can really work on a consistent basis? Of course, any of my Committee colleagues that are also interested in these questions are welcome to join in that briefing.

Additionally, the Committee is awaiting reports on the belt air technical review panel and on mine refuge chambers. The rescue team provisions from the MINER Act must be finalized by regulation before the end of the year, but there have been concerns raised in some states that have state-rescue teams that the new rules may be problematic. The HELP Committee has a responsibility to ensure that the MINER Acts' provisions are properly carried out so that they fulfill the promise we have made to miners. I hope we will do that.

Following the Crandall Canyon tragedy Chairman Miller in the House and our own Chairman made it clear that they would initiate an aggressive oversight effort into what went wrong. Chairman Kennedy and I asked the Dept of Labor Inspector General to investigate MSHA's actions at Crandall Canyon before and after the accident, and I'm glad to say that review is underway. The Secretary of Labor has also initiated an independent review by mining experts and the state of Utah has established a review panel. But these are not the only investigations going on. There are 6 official investigations into the Crandall Canyon accident, and by some counts as many as 8. Majority Committee staff in both chambers are running separate and overlapping investigations, making extensive document requests of private citizens and state agencies, issuing subpoenas, questioning witnesses before MSHA has a chance to question them, and making multiple trips to the accident site. The Department of Labor's Solicitor has issued a warning that such committee activities could easily compromise MSHA's investigation and pleaded with Congress not to jeopardize MSHA's ability to hold those who may have violated the law accountable.

Let me make it clear, I want to understand what went wrong and learn from this accident as much as anyone. But I believe that the best way to accomplish that goal is to allow experts to review these highly technical issues and issue reports. Based on these reports, Congress should determine whether there was misconduct by federal agencies or mine operators and ensure that proper actions are taken. These multiple, overlapping investigations simply complicate the picture, delay results, add an unnecessary level of

combativeness into the situation, and *they cost a lot of money*. When we are talking about protecting miners lives, it is certainly not something we put a price tag on. But the worst of the duplicitous investigations are not really targeted at protecting lives; they are about scoring political points. And the cost of this misuse will be taken out of the MSHA resources that really do protect miners' lives.

Colleagues, we have established an Office of Inspector General for the Labor Department that has 423 employees and a budget of \$71 million taxpayer dollars. They are investigating at our behest, and they have the access, expertise and staff necessary to conduct this investigation. Quite frankly, Congressional Committees do not. Let's allow the IG to perform their role and stop diverting resources away from MSHA's fundamental functions. We may be just one of the committees currently conducting this sort of oversight, but we could set an example for the others.

Finally, I would like to point out another important responsibility this Committee has towards miners. One I hope we will be able to keep. The Mine Safety and Health Review Commission (MSHRC) is an independent agency which acts as a lower court for questions of law and regulation under the Mine Safety and Health Act. This Commission is especially important now as many of the MINER Act provisions which will better protect miners are going into effect and facing challenges. Yet the 5-member Commission is 2 members short and will lose a third by the end of the year. With only two members, it will be unable to make any rulings (but will still spend appropriations!). Two nominees for the Commission have been pending before the Committee since January with no activity. I hope that we will move these nominations and ensure that the Commission is able to act to enforce our mining safety and health laws.

Clearly, there is much this Committee can do for miners. The Crandall Canyon tragedy should certainly redouble our commitment to this agenda. Let us honor those miners and all miners by focusing on real ways to improve miner safety, not just chasing headlines.

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